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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,047	09/21/2005	Peter Stierle	3429	6199
7590 Striker Striker & Stenby 103 East Neck Road Huntington, NY 11743	01/06/2009		EXAMINER LOW, LINDSAY M	
			ART UNIT 3721	PAPER NUMBER
			MAIL DATE 01/06/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/550,047	STIERLE ET AL.	
	<b>Examiner</b>	Art Unit	
	LINDSAY M. LOW	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on **24 October 2008**.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) **1-11,13-19,21 and 23-35** is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) **1-11,13-19,21 and 23-35** is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 

Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)
 

Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

#### **DETAILED ACTION**

1. This action is in response to applicant's amendment received on October 24<sup>th</sup>, 2008.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-9, 11, 13-19, 21, 23, 25-28, 33, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Modrey (2,776,385).

Claims 1-9, 11, 13-19, 21, 23, and 25 are rejected for the same reasons set forth in paragraph 5 of the previous office action mailed July 25<sup>th</sup>, 2008.

Regarding new claim 26, note that the term "rectilinearly" is defined by Dictionary.com as "formed by straight lines." Referring to Fig. 1, the cooling conduit is formed by straight lines from the intake nozzle to the motor housing.

Regarding new claim 27, the cooling conduit leads cooling air exclusively and in some locations of the conduit (near the intake nozzle and near the motor housing for example), the air travels in a direction parallel to the designated longitudinal direction of the housing.

Regarding new claim 28, note that the intake nozzle (in the vicinity of 32) is located in front of the electric motor. In addition, an exhaust 20 extends throughout the

entire length of the cord 16. The cord 16 is capable of being placed behind the electric motor in relation to the designated longitudinal direction.

Regarding new claim 33, as can be seen in Fig. 1, the designated additional casing and the housing are parts that are separated by each other, which is necessary in order to form the cooling conduits.

Regarding new claim 35, part of the cooling conduit abuts the intake nozzle as can be seen in the Fig. 1. In addition it is closed off from an interior housing in the vicinity of 15 and 50, and is in direct proximity to the intake nozzle, as it is near the intake nozzle.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Modrey (2,776,385) and Admitted Prior Art for the same reasons set forth in paragraph 7 of the previous office action, *supra*.

Modrey fails to disclose a grinder and two differently designed inlet openings. However, these features are admitted prior art since Applicant has not adequately traversed the obviousness of such features, i.e. Applicant has not pointed out the specific reason why they are not obvious. Therefore, it would have been obvious to one

of ordinary skill in the art at the time of the invention to combine Modrey's power tool with a grinder in order to facilitate cooling of the grinder.

6. Claims 24 and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Modrey (2,776,385) in view of Strozel (5,099,160).

Claim 24 is rejected for the same reasons set forth in paragraph 8 of the previous office action, *supra*.

Regarding new claim 29, the modified device of Modrey is silent about having two cooling conduits. However, Strozel teaches having two intake nozzles as discussed in the previous office action, *supra*, and two cooling conduits for the purpose of allowing a sufficient amount of fluid to reach the motor housing for cooling the drive motor.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide a second cooling conduit to Modrey's modified device for the purpose of allowing a sufficient amount of fluid for cooling the drive motor.

Regarding new claims 30 and 31, Modrey's modified cooling conduits are parallel to each other, and the intake nozzles aspirate air to cool the motor.

7. Claims 32 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Modrey (2,776,385).

Modrey discloses the same invention substantially as claimed except for the additional casing and the housing configured as separately manufactured parts. However, examiner takes Official Notice that it would have been obvious to one of ordinary skill in the art at the time of the invention to form the additional casing and the

housing as separately manufactured parts, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art.

Modrey discloses the same invention substantially as claimed but is silent about the device being an angle grinder (note that Modrey discloses that this device can be used in a power tool, see col. 1 lines 20-23). However, the examiner takes Official Notice that it is well known that angle grinders have power units, including electric motors, for powering the tool. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide Modrey's device in an angle grinder for the purpose of cooling a motor within the power tool.

***Response to Arguments***

8. Applicant's arguments filed October 24<sup>th</sup>, 2008 have been fully considered but they are not persuasive.

Applicant contends that the designated longitudinal direction is not correct. However, it should be noted that the term "longitudinal" is defined by Dictionary.com as "pertaining to longitude or length." In this instance, the direction designated in the previous office action, *supra*, is pertaining to a length of the housing. Note that the claims do not restrict the longitudinal direction to being relative to any specific part of the housing. Therefore, Modrey's designated longitudinal direction is deemed to anticipate the claimed longitudinal direction.

Applicant's arguments with respect to the separation of parts of the additional casing and the housing are believed to have been addressed in the above rejection.

For the reasons above, the grounds of rejection are deemed proper.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
10. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINDSAY M. LOW whose telephone number is (571)272-1196. The examiner can normally be reached on Monday thru Friday 7:30 to 5:00.
12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. M. L./  
Examiner, Art Unit 3721

/Rinaldi I Rada/  
Supervisory Patent Examiner, Art Unit 3721  
1/2/2009